



MILPITAS CITY COUNCIL AGENDA
TUESDAY, APRIL 7, 2015
455 EAST CALAVERAS BOULEVARD, MILPITAS, CA

5:30 P.M. (STUDY SESSION) • 7:00 P.M. (PUBLIC BUSINESS)

SUMMARY OF CONTENTS

- I. CALL TO ORDER by the Mayor (5:30 p.m.)**
- II. BUDGET STUDY SESSION**
- III. PLEDGE OF ALLEGIANCE (7:00 p.m.)**
- IV. INVOCATION (Councilmember Barbadillo)**
- V. APPROVAL OF COUNCIL MEETING MINUTES – March 17, 2015**
- VI. SCHEDULE OF MEETINGS – COUNCIL CALENDARS – April 2015**
- VII. PRESENTATION**
 - Commend Alan Pham for 2nd annual Milpitas High School Inter-School Science Fair
- VIII. PUBLIC FORUM**

Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to three minutes. As an item not listed on the agenda, no response is required from City staff or the Council and no action can be taken. However, the Council may instruct the City Manager to place the item on a future meeting agenda.

- IX. ANNOUNCEMENTS**
- X. ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS**
- XI. APPROVAL OF AGENDA**
- XII. CONSENT CALENDAR (Items with asterisks*)**

Consent calendar items are considered to be routine and will be considered for adoption by one motion. There will be no separate discussion of these items unless a member of the City Council, member of the audience, or staff requests the Council to remove an item from or be added to the consent calendar. Any person desiring to speak on any item on the consent calendar should ask to have that item removed from the consent calendar. If removed, this item will be discussed in the order in which it appears on the agenda.

XIII. PUBLIC HEARING

- 1. Conduct a Public Hearing and Introduce Ordinance No. 38.821 relating to Public Art Requirements for Private Development Projects (Staff Contact: Adam Petersen, 408-586-3274)**

XIV. UNFINISHED BUSINESS

2. Receive Update of the Odor Control Report (Staff Contact: Steven Machida, 408-586-3355)

XV. REPORTS OF OFFICERS

- * 3. Consider Mayor's Recommendation for Appointment to Milpitas Commission (Contact: Mayor Esteves, 408-586-3029)
4. Receive Presentation on an Overview of the California Public Employees Retirement System (CalPERS) (Staff Contact: Carmen Valdez, 408-586-3086)

XVI. NEW BUSINESS

5. Receive a Report and Demonstration on City Web Site Redesign (Staff Contact: Mike Luu, 408-586-2706)
6. Receive Solid Waste Program Status Report (Staff Contact: Steve Machida, 408-586-3355)
- * 7. Consider Request from Our Lady of Guadalupe Club to Waive Fee for Rental of Milpitas Community Center for Mother's Day Event on Saturday, May 9, 2015 (Staff Contact: Mary Lavelle, 408-586-3001)

XVII. ORDINANCES

8. Adopt a Resolution of Intention and Introduce Ordinance No. 101.23 Amending the City's Contract with the Board of Administration of the California Public Employees' Retirement System (Staff Contact: Carmen Valdez, 408-586-3086)
- * 9. Waive the Second Reading and Adopt Ordinance No. 38.820 Prohibiting All New Residential Uses in the Town Center Zoning District (Staff Contact: Adam Petersen, 408-586-3274)

XVIII. RESOLUTIONS

- *10. Adopt a Resolution Requesting and Making Certain Findings Relating to the Allocation of Transportation Development Act (TDA), Article 3 Funds for the 2016 Street Resurfacing Project (Staff Contact: Steve Chan, 408-586-3324)
- *11. Adopt a Resolution Granting Initial Acceptance of, and Reducing the Performance Bond for Pinewood Park Improvements, Projects No. 3412, 5095, 5096, and 7116, and Granting Authorization to the Director of Engineering to Issue the Notice of Final Acceptance after the One-Year Warranty Period and to Release the Performance Bond (Staff Contact: Steve Erickson, 408-586-3301)
- *12. Adopt a Resolution Awarding a Contract to PCD for Community Center Auditorium Audio Visual Systems Upgrade, Project No. 3406, and Authorize the Director of Engineering to Negotiate and Execute Contract Change Orders (Staff Contact: Steve Erickson, 408-586-3301)
- *13. Adopt a Resolution to Waive Minor Bid Irregularity and Award a Contract to Ghilotti Construction Company, Inc. for the Main Street Pavement Reconstruction, Project No. 4277, and Authorize Director of Engineering to Execute Contract Change Orders (Staff Contact: Steve Erickson, 408-586-3301)

- *14. Adopt a Resolution Approving a Contract with Central Medical Laboratory, Inc. for Police Drug and Alcohol Testing for the Annual Not-to-Exceed Amount of \$19,500 and Authorizing the City Manager to Execute up to Four Annual Renewals (Staff Contact: Chris Schroeder, 408-586-3161)**
- *15. Adopt a Resolution Making Findings and Determination of Public Nuisance Regarding Newby Island Resource and Recovery Park Landfill Operation (Staff Contact: Michael Ogaz, 408-586-3040)**

XIX. AGREEMENTS

- *16. Approve Amendment No. 1 to the Agreement with Ted S. Farr Increasing Compensation by \$15,000 to Assist with Implementation of the Santa Clara County Comprehensive EMS Patient Care Data System and Appropriate Funds to the Fire Department Operating Budget (Staff Contact: Rick Frawley, 408-586-2824)**
- *17. Approve an Agreement with Maze & Associates Accountancy Corporation for Professional Auditing Services for a Five Year Period Not to Exceed \$441,770 (Staff Contact: Emma Karlen, 408-586-3145)**
- *18. Approve a Consultant Agreement with Modern Day Marketing, Inc. doing business as GreatLike Media for Development and Placement of an Online Community Awareness Campaign for an Amount Not to Exceed \$25,000 (Staff Contact: Leslie Stobbe, 408-586-3352)**
- *19. Approve Agreements with the County of Santa Clara for Collection of AB939 Implementation Fees and Administration of the Countywide Household Hazardous Waste Collection Program (Staff Contact: Steven Machida, 408-586-3355)**
- *20. Approve Amendment No. 1 to the Consultant Services Agreement with RMC Water and Environment, Inc. for Utility Engineering Support (Staff Contact: Steven Machida, 408-586-3355)**
- *21. Approve Agreements with Harris & Associates, Inc. and CSG Consultants, Inc. for Engineering Support Services for the Land Development Engineering Division (Staff Contact: Steven Machida, 408-586-3355)**
- *22. Approve a New Capital Improvement Program Project for the McCandless Park, a Budget Appropriation and a Consultant Agreement with Environmental Foresight, Inc. for Outreach and Design Services for McCandless Park, Project No. 5102 (Staff Contact: Steve McHarris, 408-586-3273)**

XX. DEMAND

- *23. Approve Payment to Jensen School of Performing Arts for Recreation Classes Per Terms of Existing Agreement (Staff Contact: Dale Flunoy, 408-586-3228)**

XXI. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, APRIL 21, 2015**

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review. For more information on your rights under the Open Government Ordinance or to report a violation, contact the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035
e-mail: mogaz@ci.milpitas.ca.gov / Phone: 408-586-3040

The Open Government Ordinance is codified in the Milpitas Municipal Code as Title I Chapter 310 and is available online at the City's website www.ci.milpitas.ca.gov by selecting the Milpitas Municipal Code link.

Materials related to an item on this agenda submitted to the City Council after initial distribution of the agenda packet are available for public inspection at the City Clerk's office at Milpitas City Hall, 3rd floor 455 E. Calaveras Blvd., Milpitas and on the City website.

All City Council agendas and related materials can be viewed online here:
www.ci.milpitas.ca.gov/government/council/agenda_minutes.asp (select meeting date)

APPLY TO SERVE ON A CITY COMMISSION

Current vacancies on:
Community Advisory Commission
Sister Cities Commission

Commission application forms are available online at www.ci.milpitas.ca.gov or at Milpitas City Hall. Contact the City Clerk's office at 408-586-3003 for more information.

If you need assistance, per the Americans with Disabilities Act, for any City of Milpitas public meeting, call the City Clerk at (408) 586-3001 or send an e-mail to mlavelle@ci.milpitas.ca.gov prior to the meeting. You may request a larger font agenda or arrange for mobility assistance. For hearing assistance, headsets are available in the City Council Chambers for all meetings.

AGENDA REPORTS

XIII. PUBLIC HEARING

1. Conduct a Public Hearing and Introduce Ordinance No. 38.821 Relating to Public Art Requirements for Private Development Projects (Staff Contact: Adam Petersen, 408-586-3274)

Background: On February 18, 2014, Council directed staff to research public art in private development projects with an option for a new public art in lieu contribution. That direction also included returning to City Council with a report and analysis, and possibly an ordinance regarding a public art in private development projects program. Consistent with that direction, staff is bringing this report and a proposed Ordinance for Council consideration.

On March 11, 2015, the Planning Commission reviewed the proposed ordinance and recommended that the City Council adopt the ordinance based on a 6 to 1 vote.

To enhance the quality of life for residents in the City of Milpitas, the City is considering amending the Zoning Code to include provisions to incorporate public art requirements for private development projects. Incorporating artwork throughout the City would achieve the following public benefits:

- Distinguish Milpitas as a place to live, play, work, and visit;
- Further enhance the aesthetic environment;
- Strengthen cultural awareness, creativity, and innovative thinking;
- Integrate art professionals into the design and planning process.

Sample Ordinances

Staff investigated art ordinances in other jurisdictions to understand how agencies were incorporating public art in private development projects. Of the cities surveyed, the majority of jurisdictions required projects that were either above a certain square footage or above a certain valuation to contribute to public art. This contribution was either in the form of installing art on the project site or contributing to a public art fund that the City used for public art projects.

Brea Example

Vice Mayor Montano requested that staff evaluate the City of Brea Art in Public Places Plan (APPP). The Brea APPP requires developers to select and install permanent outdoor sculptures at their project sites. Projects with a valuation of \$1.5 million to \$3.9 million have the option of contributing sculptures or contributing in-lieu funds. Projects with a building valuation of more than \$4.0 million must install sculptures onsite. Exemptions are provided for private residences of four or fewer dwelling units, places of worship, and public facilities. Developers are required to submit a sculpture application, which is reviewed and approved by the Art in Public Places Advisory Committee during the development review process.

The table below summarizes the other California jurisdiction staff reviewed:

City	Requirement	Value Contributed to Art	On-Site Art	In-Lieu Fee
Brea	\$1.5 million - \$3.9 million building valuation	1% building permit valuation	Sculpture incorporated into project or payment required	
	\$4.0 million or more	1% building permit valuation	Select / purchase / install	
San Jose	Not Required Encouraged from Private Developers	1% of total estimated project costs	Select / purchase / install	

		0.6% of total estimated project costs		Payment Required
Oakland	Nonresidential – subject to design review and 2,000 sq ft or more	1% of permit valuation	Construct on-site or payment required to in-lieu fund	
	Residential – 20 units or more	0.5% of permit valuation		
Walnut Creek	25,000 sq ft or larger anywhere in city	1% building permit valuation		Payment Required
	15,000 sq ft – 24,999 sq ft in Core Area	0.5% building permit valuation		Payment Required
		Assessment greater than \$25,000	Construct on project site or contribute to in-lieu fund	
Pasadena	\$500,000	1% building permit valuation		
Fremont	Less than 100,000 sq ft	Fee determined by City Council – per sq ft		Payment Required
	More than 100,000 sq ft	Fee determined by City Council – per sq ft	50% of fee for art on site	50% into fund
Emeryville	Private Nonresidential - \$300,000 building development costs	1% building permit valuation	Construct on project site or contribute to in-lieu fund	
	Private Residential – 20 or more units	0.5% building permit valuation	Construct on project site or contribute to in-lieu fund	

Proposed Amendments

The proposed Zoning Ordinance amendment would create a new Section 14 in the Zoning Code.

An overview of the proposed Ordinance is provided below:

1. The public art requirement shall apply to private development projects that exceed the following thresholds:
 - a. Nonresidential development projects with 2,000 square feet or more of new floor area.
 - b. Residential development projects containing 20 or more units.
2. The amount of the public art requirement is as follows:
 - a. Nonresidential projects: One percent (1%) of the building development costs; and
 - b. Residential projects: One percent (1%) of the building development costs.
3. The Developer has the option of:
 - a. Installing publicly accessible art on the development site; or
 - b. Making an in-lieu contribution to the City's Public Art Fund for acquisition and placement of public art throughout the City.
4. The requirements, although encouraged for all development in the City of Milpitas, will not apply to an affordable housing development if the developer demonstrates to the satisfaction

of the City that the requirements would cause the development project not to be economically feasible.

The proposed Ordinance is modeled on the successful ordinances in the cities of Oakland and Emeryville. It provides the Developer with the option of commissioning public art on the site of development or making an in-lieu contribution to the City's Public Art Fund. Deposits to the Public Art Fund may be used for acquisition and placement of public art throughout the City, reviewed by the City's Art Commission staff with recommendations to the City Council. The fund can also be used for maintaining public artwork and administrative cost to administer the public art program.

The proposed Ordinance will not apply to (a) building/construction related permits already issued and not yet expired; or (b) to zoning entitlements approved by the City and not yet expired; or (c) to zoning applications deemed complete by the City as of the date of final adoption of the Ordinance.

Compliance with the provisions of the proposed Ordinance will be required by the developer at Building Permit application, as follows: (a) payment of the full amount of the Public Art in-lieu contribution, or (b) submittal of contractual agreement to commission or purchase and install approved artwork on the development site. In the case of installation of public art on the development site, proposed artwork will be reviewed and approved by the Milpitas Arts Commission and the developer will maintain artwork in proper condition on an ongoing basis.

The proposed Ordinance is an aesthetic requirement for new private development within the City of Milpitas. The proposed art, including the in-lieu fee contribution, is not a development impact fee because it does not defray an impact created by new development, and therefore a nexus study is not required.

The following table provides examples of the in-lieu contributions the City would receive from different types of development projects:

Project	Project Type	Building Valuation	1 Percent
Apex	Multi-Family Apartment	\$55,072,947	\$550,729.47
Harmony	Multi-Family Condo	\$90,082,996	\$900,829.96
Sundrop	Single Family	\$4,556,250	\$45,562.50
District 1	Mixed-Use	\$134,675,043	\$1,346,750
1400 S. Park Victoria	Commercial	\$400,000	\$4,000
Total			\$2,847,871.93

The proposed Ordinance will result in an enhanced public art program and more public artwork throughout the City of Milpitas, improving and enhancing the overall aesthetic environment. Public art enhances civic pride and helps define the City's image to the public and visitors alike. This contributes to a sense of identity and place. It makes the City of Milpitas livable and more visually stimulating, which creates a benefit to the public and enhances the quality of life.

Alternatives: City Council may consider the following alternatives:

- a) Adopt the Ordinance as proposed; or
- b) Deny the amendment; or
- c) Amend the proposed Ordinance.

Conclusion: Based on the analysis described above, adoption of the proposed Ordinance will require or provide for the installation of public artwork on new development project sites. This requirement is triggered if a nonresidential project adds more than 2,000 square feet of building space or if a residential project exceeds 20 units. Both types of development proposals are required to contribute one percent (1%) to an in-lieu fund or have artwork placed onsite. This will cause public art to be dispersed and created throughout the City of Milpitas enhancing the visual environment and quality of life for visitors and residents.

Fiscal Impact: The proposed ordinance will generate revenue for the City's Art In-Lieu Fund. This creates a positive fiscal impact that improves the aesthetic environment for the City.

California Environmental Quality Act: The project is exempt from CEQA pursuant to CEQA Guidelines Sections 15060(c)(2), 15061(b)(3) (general rule), 15183 (projects consistent with a community plan, general plan, or zoning), each of which provides a separate and independent basis for CEQA clearance and when viewed collectively provide an overall basis for CEQA clearance.

Attachments (documents in agenda packet):

- A. Draft Ordinance No. 38.821
- B. Planning Commission Agenda Report 3/11/2015
- C. Planning Commission Meeting Minutes 3/11/2015
- D. Adopted Planning Commission Resolution 15-013

Recommendations:

- 1. Open the public hearing to receive comments.
- 2. Move to close the public hearing following any comments.
- 3. Following the City Attorney reading aloud the title of Ordinance No. 38.821, move to waive the first reading of the ordinance beyond the title.
- 4. Move to introduce Ordinance No. 38.821 to amend the City of Milpitas Zoning Code to include provisions relating to public art in private development projects.

XIV. UNFINISHED BUSINESS

- 2. **Receive Update of the Odor Control Report (Staff Contact: Steven Machida, 408-586-3355)**

Background: From February 9 through March 20, 2015, the Bay Area Air Quality Management District (BAAQMD) forwarded 448 odor complaints originating in Milpitas. 222 complaints identified a garbage odor, 20 complaints identified a sewage odor, 203 complaints did not identify an odor source, and three complaints identified a mixed odor source. As of the last Council update, the City's odor reporting website has received 122 reported complaints.

Recommendation: Receive the current update of the odor control report.

XV. REPORTS OF OFFICERS

- * 3. **Consider Mayor's Recommendation for Appointment to Milpitas Commission (Contact: Mayor Esteves, 408-586-3029)**

Recommendation: Mayor Esteves recommends the appointment of Michael Lee (copy of application in agenda packet) to the Community Advisory Commission as Alternate No. 3 to a term that will expire in January of 2016.

4. Receive Presentation on an Overview of the California Public Employees Retirement System (CalPERS) (Staff Contact: Carmen Valdez, 408-586-3086)

Background: At the request of Councilmember Grilli, Mr. Ron Lind, Milpitas resident and CalPERS Board Member, will provide a presentation to the City Council on the funding status of the state retirement agency and how it relates to the City of Milpitas in CalPERS.

Recommendation: Receive a presentation by Ron Lind at the City Council meeting regarding CalPERS.

XVI. NEW BUSINESS

5. Receive a Report and Demonstration on City Web Site Redesign (Staff Contact: Mike Luu, 408-586-2706)

Background: For the past several months, Information Services staff has been working on a project to redesign the City's web site. The current design is over five years old. With the growing demand and viewing from mobile devices, the new redesign will respond and adapt to the new requirements. The goal of the redesign is to create a site that is cleaner, and adjusts to integrate with social media. Staff demonstrated the new design to the Telecommunications Commission on March 16, 2015. The new design was unanimously approved by the Telecommunications Commission. Staff will make a brief presentation to demonstrate the new web site. Some of the new features will be:

- Easily translates pages to 100 different languages
- Responsive (mobile-friendly) – Adapts and adjusts to mobile devices
- Content managed
- Modern design
- Consolidated

Alternative: The alternative is to keep the current website design.

Recommendation: Receive report from staff and direct staff to continue working on the City website update and redesign.

6. Receive Solid Waste Program Status Report (Staff Contact: Steve Machida, 408 586-3355)

Background: The City of Milpitas entered into a trash and recyclables hauling contract and a disposal contract with Browning Ferris Industries (BFI) in 1986, and entered into a residential yard waste hauling contract with BFI in 1996. Republic Services is the successor corporation to BFI and currently provides these services. All contracts will expire on September 5, 2017. It is in the best interest of the City to pursue a competitive bid and immediately commence with the process for a new contract. A Request for Proposals (RFP) process will provide for a competitive procedure ensuring the best value and service to the community.

The City has retained the services of HF&H Consultants, LLC to assist in the procurement of a solid waste services vendor. The process includes identifying proposed levels of service, ability to add services to keep in compliance with changing regulations, establishing criteria for evaluation, issue the request for proposals, proposal evaluation, award, community outreach, and implementation phase. The entire process is estimated to take 30 months. A schedule is included in the Council packet.

The next steps include presentation of a proposed Request for Proposals (RFP) process Integrity Policy and a Council Workshop. The proposed Policy, tentatively scheduled for the April 21 Council meeting, is necessary to insure that all vendors have the same information when preparing their bids. The Council workshop, tentatively scheduled for early May, provides Council with the opportunity to establish service goals, contract structure, key business points, and policies.

Alternative: An alternative is to negotiate an extension of the current contract with Republic Services. The current contract is sole source and consists of piece-meal language to accommodate new requirements and programs over the 31-year contract duration.

California Environmental Quality Act: Staff will determine whether review under the California Environmental Quality Act is necessary.

Fiscal Impact: None. The current consultant agreement includes sufficient funding for RFP preparation. Additional funding will be needed for subsequent efforts.

Recommendation: Receive a status report from the Director of Engineering on the City's solid waste program. Direct staff to proceed with the Request for Proposals process for competitive bids.

- * 7. **Consider Request from Our Lady of Guadalupe Club to Waive Fee for Rental of Milpitas Community Center for Mother's Day Event on Saturday, May 9, 2015 (Staff Contact: Mary Lavelle, 408-586-3001)**

Background: The City Clerk's office received a "Donation or Fee Waiver/Reduction Request Application Form" on March 12, 2015 from Milpitas resident Ruben Esguerra of Our Lady of Guadalupe Club, affiliated with St. John the Baptist Catholic Church, to waive the fee for rental of the Milpitas Community Center's Auditorium on Saturday, May 9, 2015 for a Mother's Day Event. An IRS letter of non-profit status for the Catholic Diocese of San Jose was submitted with the request.

Fiscal Impact: \$20,000 was approved and included in the FY 2014-15 City budget for City Council's Unallocated Community Promotions. If the current donation request is approved, then \$14,990.25 would be the remaining balance.

Recommendation: Consider the request from Our Lady of Guadalupe Club and move to approve fee waiver of \$800.00 for the Mother's Day Event on Saturday, May 9, 2015.

XVII. ORDINANCES

8. **Adopt a Resolution of Intention and Introduce Ordinance No. 101.23 Amending the City's Contract with the Board of Administration of the California Public Employees' Retirement System (Staff Contact: Carmen Valdez, 408-586-3086)**

Background: As a result of contract negotiations between the City of Milpitas and the Milpitas International Association of Fire Fighters Local 1699 (IAFF) finalizing the Memorandum of Understanding (MOU) for the period of December 3, 2014 through December 31, 2016, both parties agreed that the City would amend its current contract with the Public Employees Retirement System (PERS) to provide Section 20516 (Employees Sharing Additional Cost) of 3% for local fire members in the International Association of Firefighters Local Union 1699.

Government Code Section 7507 requires that the all future costs or benefits changes be made public at least two weeks prior to the adoption of the final Ordinance. The classic local fire members' contribution rate will now be 12% of reportable earnings and any new local fire members' contribution rate will be 14.25% of reportable earnings. Any changes in the employee

or employer contribution rate will be effective as of the effective date of the contract amendment. PERS contract amendment procedures require an adoption of a Resolution of Intention to amend the contract and an adoption of an amending Ordinance.

Fiscal Impact: None.

Recommendations:

1. Adopt a Resolution of Intention to approve a contract amendment with the Public Employees Retirement System to provide Section 20516 (Employees Sharing Additional Cost) of 3% for local fire members in IAFF.
2. Following a reading the ordinance title by the City Attorney, move to waive the first reading beyond the title of Ordinance No. 101.23.
3. Introduce Ordinance No. 101.23, authorizing an amendment to the contract between the City Council of the City of Milpitas and the Board of Administration of the California Public Employees' Retirement System.

- * 9. Waive the Second Reading and Adopt Ordinance No. 38.820 Prohibiting All New Residential Uses in the Town Center Zoning District (Staff Contact: Adam Petersen, 408-586-3274)**

Background: On March 17, 2015, the City Council introduced Ordinance 38.820 to amend the City's Zoning Ordinance to prohibit all new residential uses from the Town Center Zoning District. Ordinance No. 38.820 is now ready for a second reading and adoption.

Recommendation: Waive the second reading and adopt Ordinance No. 38.820 amending the Town Center Zone prohibiting all new residential uses while allowing existing and previously approved residential uses to continue.

XVIII. RESOLUTIONS

- *10. Adopt a Resolution Requesting and Making Certain Findings Relating to the Allocation of Transportation Development Act (TDA), Article 3 Funds for the 2016 Street Resurfacing Project (Staff Contact: Steve Chan, 408-586-3324)**

Background: The City of Milpitas receives guaranteed funding from the Transportation Development Act (TDA) Article 3 fund each year for pedestrian and bicycle improvement projects. The guaranteed funding is based on population and the FY 2015-16 funding for Milpitas is \$51,634.

The City of Milpitas will submit a grant proposal to the Santa Clara Valley Transportation Authority for submission to Metropolitan Transportation Commission for release of this funding for the 2016 Street Resurfacing Project. The project will include the installation of Americans with Disability Act-compliant pedestrian ramps. Locations of improvements will be determined later, during the design phase. Construction is scheduled for the Summer/Fall of 2015.

Alternative: Denial of the request will result in the forfeit of the TDA Article 3 funds for 2016 Street Resurfacing Project.

California Environmental Quality Act: The project is categorical exempt under CEQA Article 19 Section 15301 for maintenance of existing public streets

Fiscal Impact: None. The City will receive guaranteed funding of \$51,634 to use towards the 2016 Street Resurfacing Project.

Recommendation: Adopt a resolution requesting allocation and making certain findings relating to the Transportation Development Act, Article 3 Funds for the 2016 Street Resurfacing Project.

- *11. Adopt a Resolution Granting Initial Acceptance of, and Reducing the Performance Bond for Pinewood Park Improvements, Projects No. 3412, 5095, 5096, and 7116, and Granting Authorization to the Director of Engineering to Issue the Notice of Final Acceptance after the One-Year Warranty Period and to Release the Performance Bond (Staff Contact: Steve Erickson, 408-586-3301)**

Background: City Council awarded the Pinewood Park Improvements, Projects No. 3412, No. 5095, No. 5096 and No. 7116 to Suarez & Munoz Construction, Inc. on March 18, 2014. The project provided various improvements at Pinewood Park, including the installation of group picnic areas, repair and replacement of play lot and structures, replacement of the tennis court backstop wall, rehabilitation of irrigation, lighting, and landscaping. The replacement of the tennis court ball wall at Robert E. Browne Park and electrical repairs at Hall Memorial Park were included in this project. The project was successfully completed under budget. City Council is recommended to adopt a resolution granting initial acceptance of the project and authorize the reduction of the contractor's faithful performance bond to \$181,797.45, which is 10% of the final contract value. City Council is recommended to authorize the Director of Engineering to issue the Notice of Final Acceptance and to release the performance bond after the one year warranty period without further City Council action, provided all warranty work is completed to the satisfaction of the Director of Engineering.

Alternative: A denial of this request would result in the project not being accepted and the Notice of Completion not recorded, causing a potential delay claim by the Contractor.

California Environmental Quality Act: This project is categorically exempt under Sections 15301 (Existing Facilities), 15302 (Replacement or Reconstruction), and 15303 (New Construction or Conversion of Small Structures) of the California Environmental Quality Act.

Fiscal Impact: None.

Recommendation: Adopt a resolution granting initial acceptance of the Pinewood Park Improvements, Projects No. 3412, No. 5095, No. 5096, and No. 7116, subject to a one year warranty period, and reduction of the faithful performance bond to \$181,797.45; and granting authorization to the Director of Engineering to issue the notice of final acceptance after the one-year warranty period and to release and discharge the performance bond without further City Council action.

- *12. Adopt a Resolution Awarding a Contract to PCD for Community Center Auditorium Audio Visual Systems Upgrade, Project No. 3406, and Authorize the Director of Engineering to Negotiate and Execute Contract Change Orders (Staff Contact: Steve Erickson, 408-586-3301)**

Background: On February 3, 2015, the City Council approved the project plans and specifications and authorized the advertisement for construction bid proposals for Community Center Auditorium Audio Visual (AV) Systems Upgrade Project No. 3406. The project provides for the installation of replacement audio equipment for the Community Center auditorium. The Engineer's Estimate for the base bid project work was \$175,000.

The project was advertised and three sealed bid proposals were received on March 12, 2015. Bid proposals ranged from \$148,563.00 to \$285,272.35, and the lowest responsible base bid was submitted by PCD in the amount of \$148,563.00. No protest was filed.

As was previously approved for the successful completion of recent projects with tight completion schedules, staff is requesting the use of the same change order policy (copy of policy is included in the Council agenda packet). This policy allows for the timely completion of the Community Center Auditorium AV Systems Upgrade Project, while addressing the need to respond swiftly to construction conditions and approving necessary change orders, in order to limit potential claims or risk to the City. The construction contingency established for this project is \$15,000, approximately 10% of the total contract value, and the change order authority would not exceed this amount and would not require an additional appropriation.

Alternative: Denial of this recommendation will result in not proceeding with the Community Center Auditorium Audio Visual System updates.

California Environmental Quality Act: This project is categorically exempt under Section 15301 of CEQA guidelines for maintenance of existing facilities.

Fiscal Impact: None. Sufficient funds are available in the project budget.

Recommendation: Adopt a resolution:

1. Awarding a contract to PCD and authorize the City Manager to execute the contract for the Community Center Auditorium Audio Visual Systems Upgrade in the amount of \$148,563.
2. Authorizing the Director of Engineering to negotiate and execute contract change orders for Community Center Auditorium AV Systems Upgrade Project in the cumulative amount not to exceed \$15,000.

***13. Adopt a Resolution to Waive Minor Bid Irregularity and Award a Contract to Ghilotti Construction Company, Inc. for the Main Street Pavement Reconstruction, Project No. 4277, and Authorize Director of Engineering to Execute Contract Change Orders (Staff Contact: Steve Erickson, 408-586-3301)**

Background: On February 17, 2015, the City Council approved the project plans and specifications and authorized the advertisement for construction bid proposals for the Main Street Pavement Reconstruction, Project No. 4277. The project provides for the partial reconstruction of South Main Street from Carlo Street to Great Mall Parkway. The work includes the removal and replacement of roadway pavement, installation of new Americans with Disabilities Act (ADA) sidewalk ramps, curb, gutter, sidewalk, and driveway repairs, storm drain improvements, replacement of street trees, and modifications to the traffic signal detection systems at four intersections. An asphalt overlay of Serra Way, West Curtis Avenue and Corning Avenue, from South Main Street to Abel Street is also included. The Engineer's Estimate for the base bid project work was \$3,600,000.

The project was advertised and eight sealed bid proposals were received on March 18, 2015. Bid proposals for the base bid ranged from \$2,823,287.02 to \$3,346,356.90. Two of the eight bids submitted were determined to be nonresponsive. Bay Cities Paving & Grading, which submitted the lowest bid, did not attend any of the mandatory pre-bid meetings and therefore, was deemed nonresponsive. Additionally, the highest bid from O'Grady Paving, Inc. was deemed non-responsive since it did not properly complete the bid proposal forms. Therefore, the lowest responsible bid was submitted by Ghilotti Construction Company, Inc. in the amount of \$2,871,691.35.

One protest was received by the City from Ghilotti Construction Company, Inc. The protest letter indicated that the lowest bid by Bay Cities Paving & Grading should be deemed non-responsive since they failed to attend any of the required pre-bid meetings. City staff agreed since the bid documents clearly required all proposers to attend at least one of two pre-bid meetings or else bids would not be accepted.

The lowest responsible bid from Ghilotti Construction Company, Inc. did contain an arithmetic error between an item unit cost and its extension which subsequently adjusted the total base bid price by \$180. However, the Public Contract Code requirements and the City's bid documents define this as a "minor bid irregularity" and authorize the City to waive this irregularity and proceed with the award of the contract. Project staff and the City Attorney's office have reviewed this bid irregularity and determined that it is minor and insignificant since the error result in a price difference of only \$180, and recommends the Council waive the minor bid irregularity and award the construction contract to Ghilotti Construction Company, Inc.

The bid package included 15 add alternate work items for consideration of pricing after bid opening. The add alternate items provide for the asphalt overlay and new pavement striping of Curtis Avenue, and Corning Avenue from South Main Street to Abel Street. The cost of the additional items is \$174,697.40 and would be most cost effective to include at this time. Staff recommends the award of the construction contract including the additional 15 add alternate items for a total cost of \$3,046,388.75, which is well below the project's cost plan. Since the base bid came in nearly \$700,000 below the estimated cost, staff recommends adding additional work to the project in order to expend all of the RDA funds at this time. The additional work would include: asphalt overlay of Weller Lane; upgrading the signal poles at Serra and Main; installing a slotted curb at the median island in front of the Library; and additional sidewalk and roadway replacement. This additional work would be paid for out of the project construction contingency budget and no additional appropriation is required.

As was previously approved for the successful completion of recent projects with tight completion schedules, staff is requesting the use of the same change order policy. This policy allows for the timely completion of the Main Street Pavement Reconstruction Project, while addressing the need to respond swiftly to construction conditions and approving necessary change orders, in order to limit potential claims or risk to the City. The construction contingency established for this project is \$625,000, which is approximately 20% of the total contract value.

Alternative: A denial of this request would result in not completing the reconstruction and pavement overlay improvements along South Main Street, Serra Way, West Curtis Avenue, and Corning Avenue, and the bond funding for this project would be required to be relinquished to the State of California.

California Environmental Quality Act: The project is exempt under Section 15301 (Existing Facilities) of the CEQA Guidelines.

Fiscal Impact: None. Sufficient funds are available in the project budget.

Recommendation: Adopt a resolution waiving a minor bid irregularity, awarding a contract including 15 add alternate items to Ghilotti Construction Company, Inc. and authorizing the City Manager to execute the contract for Main Street Pavement Reconstruction, Project No. 4277, in the total amount of \$3,046,388.75, and authorizing the Director of Engineering to negotiate and execute contract change orders for the project in the cumulative amount not to exceed \$625,000.

- *14. Adopt a Resolution Approving a Contract with Central Medical Laboratory, Inc. for Police Drug and Alcohol Testing for the Annual Not-to-Exceed Amount of \$19,500 and Authorizing the City Manager to Execute up to Four Annual Renewals (Staff Contact: Chris Schroeder, 408-586-3161)**

Background: Central Medical Laboratory, Inc. is the only provider of on-call lab technicians to perform blood and/or urine specimen collection for drug and alcohol testing for the law enforcement services in Santa Clara County. The service is provided as directed by the Police Department at various locations within the county, including the City of Milpitas Police Department, hospital emergency rooms, County Jail, Elmwood Jail, various roadside checkpoints, and/or crime scenes. Once the samples are taken they are forwarded to the Santa

Clara County Crime Lab for processing. Occasionally, Central Medical Laboratory, Inc. technicians are subpoenaed to testify as to what occurred at the collection point. Central Medical Laboratory, Inc. has been providing these services to the City since 1996. Testing costs have been averaging approximately \$18,000.00 per year, but are expected to increase.

As a result of Central Medical Laboratory, Inc. status as the sole provider within Santa Clara County, the purchase would be made without formally bidding the service in accordance with Municipal Code Section I-2-3.09 "Sole Source Procurement." Staff therefore recommends a one year contract with authorization for the City Manager to extend up to four annual renewals of the contract with up to annual rate increase of 5% based on inflation, increased material cost, or similar factors.

Fiscal Impact: None. The annual estimated expense is programmed for Fiscal Year 2014-15.

Recommendation: Adopt a Resolution approving an agreement with Central Medical Laboratory, Inc. for drug and alcohol testing in the annual not-to-exceed amount of \$19,500.00 and for a term from April 15, 2015 to April 14, 2016; and authorize the City Manager to extend the term of the agreement on an annual basis for up to four years with an annual increase of no more than 5% per year, without further City Council approval except appropriation of funds.

***15. Adopt a Resolution Making Findings and Determination of Public Nuisance Regarding Newby Island Resource and Recovery Park Landfill Operation (Staff Contact: Michael Ogaz, 408-586-3040)**

Background: Overwhelming concern from Milpitas and other local citizens regarding odors from Newby Island has been presented to the City in the form of a petition signed by more than 16,000 citizens. These citizens conclude that Newby Island constitutes a public nuisance and its operations are detrimental to the public health and safety. This conclusion is supported by numerous public complaints reported by Bay Area Air Quality Management District (BAAQMD) over the years and most significantly resulting in numerous confirmed complaints and at least five notices of violation regarding Newby Island during the recent months of December and January. This evidence of odor nuisance from Newby Island is further supported by the City of Milpitas Odor hotline which has received over 678 odor complaints during calendar year 2014, and 156 in the month of December of that year, and 394 in the month of January and 110 in the month of February of 2015.

The odor problem created by Newby Island is not new. Odors from the landfill have existed for the entire life of the City of Milpitas since before its incorporation in 1954. As recently as 2003, Milpitas created a stakeholder group intended to address the issues related to odor. The Newby Island operators as well as other stakeholders participated and one of the results was the odor reporting system now employed by BAAQMD. Unfortunately, that reporting system has turned out to be unsatisfactory since it requires that a citizen odor complaint be confirmed by a BAAQMD inspector. Due to the time it takes for an inspector to arrive at the location of the reported odor and time to trace it back to its source, few complaints result in being confirmed by the Air District. Partly this is due to the transitory nature of odors and how they are affected by variable wind conditions. Nonetheless, in a March 16, 2015 City Engineering report, it was noted that BAAQMD has issued three Public Nuisance Violations to Newby Island Landfill and two to the Recyclery at Newby Island. The report (included in the agenda packet) does not indicate what action will be taken as a result of these violations but does note that BAAQMD will conduct a public meeting at Milpitas City Hall on April 23, 2015. The city encourages all interested citizens to appear at the meeting on April 23 to voice their opinions.

Based on the foregoing information and evidence that operations at Newby Island constitute a public nuisance, staff recommends that the City adopt a resolution making a formal finding to that effect and also finding that the expansion project which will increase the height of the landfill by 95 feet will create an odor impact having an unacceptable negative environmental

impact on adjacent properties and nearby properties, including residential and commercial properties within the City of Milpitas.

Fiscal Impact: None.

Recommendation: Adopt a resolution finding public nuisance and negative environmental effect from operations at Newby Island.

XIX. AGREEMENTS

- *16. Approve Amendment No. 1 to the Agreement with Ted S. Farr Increasing Compensation by \$15,000 to Assist with Implementation of the Santa Clara County Comprehensive EMS Patient Care Data System and Appropriate Funds to the Fire Department Operating Budget (Staff Contact: Rick Frawley, 408-586-2824)**

Background: The City of Milpitas is among several other Santa Clara County cities to receive a grant from Santa Clara County to implement its mandatory Comprehensive EMS Patient Care Data System. System implementation must be completed by July 1, 2015. The deployment and training requirements related to the system implementation must be incorporated in the City's EMS QA.QI policies and procedures. As such, these additional and related consulting services are necessary to complete the project in a timely manner and assure continuity in the quality of the work product.

This project will adhere to the requirements which are mandated in Santa Clara County Prehospital Care Policy 309 - Comprehensive EMS Patient Care Data System. The implementation of the patient care data system will require the purchase and implementation of patient bed side capture computer devices will allow for a unified patient record from the point of initial contact by Milpitas Fire Department resources through transport and eventually to the receiving hospital facility. Additionally, funds will be applied to the transmission and capture of cardiac monitor information for critical patients.

A contractor will assist in the deployment and training required for this project. The City entered into a consulting services agreement with Ted S. Farr on July 1, 2014 in the amount of \$19,920 to provide Emergency Medical System consulting services. These services consisted primarily of developing policies, procedures and reporting to assure best practices patient care and compliance with Santa Clara County EMS QA.QI. Staff recommends the City Council approve Amendment No. 1 to increase the Scope of Work and increase the compensation in the amount of \$15,000 for a total contract amount of \$34,920 to assist in completing the implementation of the countywide Comprehensive EMS Patient Care Data System.

The total amount funded by Santa Clara County Emergency Medical Services (EMS) trust fund for this project is \$53,575.04. Expenditure of the funds will be directed to the following areas:

- Tablet computers with peripherals (\$15,509.30)
- Cardiac monitor modems with peripherals (\$10,910)
- Data plans for tablet computers and modems (\$5,520)
- Contractor services for project implementation and training (\$15,000). Compensation for additional services are funded entirely from the Santa Clara County grant funding for implementing its countywide Comprehensive EMS Patient Care Data System
- Reserve cardiac monitor peripheral equipment to support longevity of the program (\$6,635.74)

Fiscal Impact: None. Compensation for equipment purchases, data plans, and additional services are funded entirely from the Santa Clara County grant for implementing its countywide Comprehensive EMS Patient Care Data System.

Recommendations:

1. Approve Amendment No. 1 to the consultant agreement with Ted S. Farr in the additional compensation amount of \$15,000 for implementation of the countywide Comprehensive EMS Patient Care Data System.
2. Appropriate funding to the Fire Department's operating budget in the amount of \$53,575.04 from the Santa Clara County Emergency Medical Services trust fund.

***17. Approve an Agreement with Maze & Associates Accountancy Corporation for Professional Auditing Services for a Five Year Period Not to Exceed \$441,770 (Staff Contact: Emma Karlen, 408-586-3145)**

Background: The City's agreement with Maze & Associates for professional auditing services expired in 2014. The City of Milpitas issued a Request for Proposals on February 6, 2015. 61 Certified Public Accounting firms were solicited and eight firms responded. In March, a panel consisting of the Finance Directors of Menlo Park and Saratoga along with staff interviewed the top two rated firms. Based on results of the interviews, the panel recommended Maze & Associates for the auditing services. Maze & Associates specializes in governmental auditing and has an extensive base of clients in this region. The firm is committed to meet the City's audit timeline.

Therefore, city staff recommends to City Council to enter into a five-year contract with Maze & Associates. The scope of the service includes issuance of audit reports on the financial statements of the City, Successor Agency, Milpitas Public Financing Authority, Single Audit, Transportation Development Act and Agreed Upon Procedure Reports. Fees for these audit services will not exceed \$82,795 for the first year, \$85,486 for the second year, \$88,264 for the third year, \$91,132 for the fourth year and \$94,093 for the fifth year.

Fiscal Impact: None. There are sufficient funds available in the FY 2014-15 budget for this service.

Recommendation: Approve an agreement with Maze & Associates Accountancy Corporation for professional auditing services in the total amount of \$441,770 and for a term from April 7, 2015 to January 31, 2020.

***18. Approve a Consultant Agreement with Modern Day Marketing, Inc. doing business as GreatLike Media for Development and Placement of an Online Community Awareness Campaign for an Amount Not to Exceed \$25,000 (Staff Contact: Leslie Stobbe, 408-586-3352)**

Background: Under the Municipal Stormwater Permit, the City of Milpitas submits annual reporting about actions taken to reduce litter and other pollutants carried by urban runoff into local creeks and South San Francisco Bay and implements a state mandated Long-Term Trash Load Reduction Plan (Plan). The Public Information and Participation component of the permit requires outreach that carry messages to raise awareness about littering, urban runoff, and storm drain debris.

On April 15, 2014, the City Council directed staff to include \$8,500 for increased code enforcement and \$25,000 for an online advertising campaign in the FY 2014-15 proposed budget and to begin implementation of the City's Plan. After a selection panel of City of Milpitas and Sunnyvale staff reviewed consultant proposals and websites, staff is prepared to conduct an online campaign that targets residents and people working in and visiting Milpitas. Advertising would be designed to engage Internet browsers with a click and registration for more information, and a possible free entry into a contest for giveaways to build a database of engaged browsers. Online methodologies will also track the mobile campaign and gauge public interest. The campaign is slated to begin in May and is expected to run through August of 2015.

Alternative: Not producing an effective outreach campaign reduces achievement towards mandatory trash load reduction in waterways. Current advertising and mailers do carry pollution prevention and litter abatement messages however social media offers a broader and more effective reach of the target audience.

California Environmental Quality Act: The Long-Term Trash Load Reduction Plan and its components are exempt from CEQA under CEQA Guidelines Sections 15307 and 15308 as actions taken to assure the maintenance, restoration, enhancement, or protection of the environment.

Fiscal Impact: None. There are sufficient funds in the current project budget.

Recommendation: Approve a consultant agreement with Modern Day Marketing, Inc. doing business as GreatLike Media, for development and placement of an online community awareness campaign for an amount not-to-exceed \$25,000.

***19. Approve Agreements with the County of Santa Clara for Collection of AB939 Implementation Fees and Administration of the Countywide Household Hazardous Waste Collection Program (Staff Contact: Steven Machida, 408-586-3355)**

Background: Since 1992, the cities of Santa Clara County have annually executed agreements with the County of Santa Clara authorizing the County to collect fees and to provide waste diversion services on behalf of the cities. By these agreements, the County will collect \$4.10 per ton of waste disposed at landfills within the County in FY 2015-16, a fee that has not increased since FY 2009-10. From this fee, the County will remit \$1.50 per ton to the city of waste origin for use in recycling programs. The County will use the remaining \$2.60 per ton to provide household hazardous waste collection services to residents throughout the County. The County will remit any funds in excess of those needed for the annual household hazardous waste program to the cities of waste origin the following year.

For FY 2014-15, the County projects that countywide landfill disposal will be 1,226,530 tons. The \$4.10 per ton tipping fee will generate \$5,028,773, of which \$1,839,795 will be remitted to the cities for their recycling programs and \$3,188,978 will be available for the countywide household hazardous waste collection program. The City of Milpitas is expected to generate 63,181 tons of waste or 5.2% of the total, and so expects to receive \$94,772 for its recycling programs. Based upon past experience, staff anticipates the County to remit about \$50,000 of unused household hazardous waste fees to the City this year. This funding is programmed into the City's FY 2014-15 solid waste operating budget and can be used for activities supporting the City's compliance with State recycling and waste diversion laws.

Alternatives: The AB939 agreement allows collection of fees from July 1, 2015 to June 30, 2018 upon approval by all 15 participating cities and the County by June 30, 2015 or jeopardize continuation of the program's existence. The HHW agreement allows access to the County's long-standing program and amenities from July 1, 2015 to June 30, 2018 or requires cities to create their own fully-functioning, self-operational HHW program.

California Environmental Quality Act: The item is exempt from CEQA as there will be no physical change to the environment.

Fiscal Impact: The recommended action will provide approximately \$94,772 in revenue for the City's solid waste fund.

Recommendation: Approve agreements with the County of Santa Clara for collection of AB939 Implementation Fees and administration of the Countywide Household Hazardous Waste Collection Program.

- *20. Approve Amendment No. 1 to the Consultant Services Agreement with RMC Water and Environment, Inc. for Utility Engineering Support (Staff Contact: Steven Machida, 408-586-3355)**

Background: On October 7, 2014, the City entered into an Agreement with RMC Water and Environment, Inc for support to backfill City staff vacancy in the Utility Engineering Section for water/recycled water distribution and wastewater collection systems through June 30, 2015. Staff recommends increasing the agreement in the amount of \$58,000 for continued support anticipated to be needed through December, 2015. This will bring the total value of the agreement to \$85,734. Proposed Amendment No. 1 is included in the Council packet.

Alternative: Denial of this request will result in delayed completion of some Utility Engineering tasks. Tasks include but are not limited to: regulatory compliance reporting for water, sewer, and urban runoff programs, developer project plan checking, implementing new water conservation requirements, and participating in and reviewing documentation for regional water, sewer, urban runoff, and solid waste programs.

California Environmental Quality Act: This action is not considered a project under CEQA as there will be no direct, or reasonably foreseeable indirect physical change in the environment.

Fiscal Impact: None. There are sufficient funds available in the Utility Engineering budget due to salary savings.

Recommendation: Approve Amendment No.1 to the Consultant Services Agreement with RMC Water and Environment, Inc for Utility Engineering support in the amount of \$58,000 and for a term through December 31, 2015.

- *21. Approve Agreements with Harris & Associates, Inc. and CSG Consultants, Inc. for Engineering Support Services for the Land Development Engineering Division (Staff Contact: Steven Machida, 408-586-3355)**

Background: Due to current peak work load, development project priorities with new submittals of land development projects, and in order to meet project schedules of current projects and anticipated projects, staff is recommending additional consultant services to augment staff resources to assist with plan review services. Harris & Associates, Inc. and CSG Consultants, Inc. will provide services related to private development projects, which are fully reimbursed from developer funds.

Staff recommends that Harris & Associates, Inc. and CSG Consultants, Inc. provide support through the end of the current fiscal year. Staff negotiated a scope and fee for these services by the following amounts: Harris and Associates not to exceed \$80,000, for a Principal Engineer level staff, and CSG Consultants, Inc. not to exceed \$70,000 for an Associate Engineer level staff. The City is in the process of recruiting to fill these positions and the two proposed agreements will provide assistance in the interim.

Alternative: Denial of this request would result in delays in the review of development projects causing potential delay claim by developers under the Permit Streamlining Act.

California Environmental Quality Act: This project is exempt from CEQA pursuant to Section 15061(b)(3) since it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Fiscal Impact: None. Salary savings from the two vacant Associate Civil Engineer Positions will fund a majority of these staff argumentation services. Remaining consultant expenses are reimbursable through the private development projects.

Recommendation: Approve agreements with Harris & Associates, Inc. in the amount of \$80,000 and with CSG Consultants, Inc. in the amount of \$70,000 for terms from April 7, 2015 to December 31, 2015 for engineering support services.

- *22. Approve a New Capital Improvement Program Project for the McCandless Park, a Budget Appropriation and a Consultant Agreement with Environmental Foresight, Inc. for Outreach and Design Services for McCandless Park, Project No. 5102 (Staff Contact: Steve McHarris, 408-586-3273)**

Background: McCandless Park and Joint-Use Park Area

The Transit Area Specific Plan (TASP) has designated a large parcel located on the east side of McCandless near Montague Expressway as school and public park area. The Milpitas Unified School District is currently underway in their design of an elementary school for the portion of the site that the City will sell to the MUSD under a Purchase and Sale Agreement previously approved by the City Council. In addition, the MUSD is also acquiring some additional land to meet the needs for the school. Figure 1 (visual layout in the agenda packet) illustrates the current preliminary school design, City park and joint-use area.

A portion of the City owned parcel will be used as joint-use for park and school recreation facilities. The scope of the McCandless City Park and Joint-Use School Project is to commence design of the City park and joint-use parcels to develop a state-of-the-art recreational facility for the community. The design effort for street frontage, trail connections, park amenities, and joint-use school area are required to develop the project from initial program studies through final construction.

The Planning and Neighborhood Services Department is requesting approval from the City Council to enter into a consultant agreement with Environmental Foresight, Inc. for high quality public outreach and landscape design services for the McCandless City Park and Joint-Use School Project site in the amount of \$248,400. A summary of the scope of work includes:

- Meetings with City and School District staff to solicit input on the needs for the park site;
- Conduct two community workshops to propose and finalize park site design;
- Implementing highly skilled professional design services in preparing the overall plan and design of the proposed park;
- Prepare landscape construction documents for building permitting, bidding, and construction including a 100% City submittal and one (1) round of reasonable landscape related City plan check comments; and
- Provide assistance to landscape related bidding clarifications, landscape submittals, and site observations for the approved landscape Construction Documents.

City Council is also requested to approve a new Capital Improvement Project (CIP) for the development of the new McCandless Park. A total of \$300,000 in funding is required for the layout and schematic design services and project administration from the Transit Area Specific Plan (TASP) impact fees. As part of the park design process, the park design will be reviewed by the Parks, Recreation, & Cultural Resources Commission, the Planning Commission, and the City Council. Staff will have a better understanding of the park construction cost once the design of the park is completed.

Alternatives:

- 1) City Council may reconsider the proposed work scope and if so, delays will occur in park design and construction.
- 2) City Council may deny approval of new CIP and consultant services agreement.

Fiscal Impact: A budget appropriation is requested in the amount of \$300,000 from the Transit Area Specific Plan impact fees fund contributions for McCandless Park, Project No. 5102.

Recommendations:

1. Approve new Capital Improvement Program Project No. 5102 for McCandless Park.
2. Approve a budget appropriation of \$300,000 from Transit Area Specific Plan (TASP) impact fees to the new CIP No. 5102.
3. Approve an agreement with Environmental Foresight, Inc. in the amount not to exceed \$248,400 to prepare the McCandless Park Project No. 5102 for a term from April 7, 2015 to June 30, 2019.

XX. DEMAND

***23. Approve Payment to Jensen School of Performing Arts for Recreation Classes Per Terms of Existing Agreement (Staff Contact: Dale Flunoy, 408-586-3228)**

Background: The City of Milpitas and Jensen School of Performing Arts entered into a recreation services agreement effective from July 1, 2014 to June 30, 2015. The agreement was for general Youth Program classes in an amount of \$20,000.

Due to unanticipated high enrollments, program participation and adding Pre-K Enrichment classes, new compensation to the contractor needs to increase by \$20,000, for a total payment amount of \$40,000. Funds were approved by the City Council in the FY 2014-15 Recreation Services budget and are available in the department's operating budget for these services.

Fiscal Impact: None.

Recommendation: Per existing agreement with Jensen School of Performing Arts for Pre-K Enrichment and Youth Program classes, authorize payment in the amount of \$40,000.

XXI. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, APRIL 21, 2015**